

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO.: 2009-355-T

IN RE:

YELLOW CAB OF GREENVILLE, INC.'s)	
Petition for Rule to Show Cause as to Why)	RESPONSE TO PETITION
AMERICAN VIP CAB, LLC, should not have)	AND COUNTER-PETITION
its Certificate of Public Convenience and)	
Necessity revoked.)	

COMES NOW, the Respondent, AMERICAN VIP CAB, LLC, by and through its undersigned attorney, Stephen Fulton Shaw, Esq., and hereby responds to, and affirmatively defends against, Petitioner's Petition in the above-referenced matter as follows:

NO STATED VIOLATION OF SOUTH CAROLINA LAW OR REGULATIONS

To the extent Petitioner has petitioned for any cognizable relief under South Carolina Law or Regulations, Respondent is unable to ascertain the exact nature of any violations alleged in Petitioner's Petition.

COMPLIANCE

To the extent that Petitioner has adequately alleged any violations of South Carolina Law or Regulations, Respondent denies such allegations and affirms that it is in full compliance and conformity with South Carolina Law and Regulations and should not have its Certificate of Public Convenience and Necessity revoked.

GRANDFATHERING

To the extent that Petitioner has adequately alleged any violations of compliance with South Carolina Law or Regulations, Respondent asserts that it is exempt or grandfathered from compliance with such South Carolina Law and/or Regulations and should not have its Certificate of Public Convenience and Necessity revoked.

WAIVER AND ESTOPPEL

To the extent that Petitioner has adequately alleged any violations of compliance with South Carolina Law or Regulations, Respondent asserts that Petitioner is estopped from prosecuting action in the above-mentioned cause because Petitioner failed to timely raise and objection to Respondent's actions and Respondent has relied upon Petitioner's failure to timely act such that Respondent would suffer great detriment if its Certificate of Public Convenience and Necessity is revoked.

LACHES

To the extent that Petitioner has adequately alleged any violations of compliance with South Carolina Law or Regulations, Respondent asserts that Petitioner is prevented from raising those claims as a result of laches in that Petitioner failed to timely bring its Petition.

Counter-Petition 1st Cause of Action ABUSE OF PROCESS

To the extent that Petitioner has adequately alleged any violations of compliance with South Carolina Law or Regulations, Respondent asserts that Petitioner is abusing process by requiring Respondent to respond to its Petition with that responses' attendant costs and efforts.

Counter-Petition
2nd Cause of Action
FRIVOULOUS ACTION UNDER SOUTH CAROLINA CODE OF LAWS §15-36-10

To the extent that Petitioner has adequately alleged any violations of compliance with South Carolina Law or Regulations, Respondent asserts that Petitioner's Petition and subsequent prosecution are, and will continue to be, frivolous actions within the meaning of South Carolina Code of Laws Section 15-36-10. Petitioner's Petition, and subsequent prosecution of this action is frivolous because:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

WHEREFORE, Respondent and Counter-Petitioner prays for relief as follows:

1. On the PETITION, that Petitioner's Petition be dismissed with prejudice. Alternatively, that this Court find that no cause exists as to why Respondent's Certificate of Public

Convenience and Necessity be revoked. Alternatively, that Respondent's Certificate of Public Convenience and Necessity be amended.

2. On the COUNTER-PETITION, 1st CAUSE OF ACTION, for actual and punitive damages for the counter-petitioner, against the petitioner.
3. On the COUNTER-PETITION, 2nd CAUSE OF ACTION, for costs and attorney's fees as provided for in the statute.
4. For recovery of costs, attorney's fees, and expenses reasonably incurred in the instant action by the fullest extent allowed by law.
5. For any other relief this Court deems just and proper.

s/ STEPHEN FULTON SHAW
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Mauldin, SC